

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  OFFICE OF CONSUMER ADVOCATE,  Complainant,  vs.  LEGACY LONG DISTANCE INTERNATIONAL, INC.,  Respondent.	DOCKET NO. FCU-03-48
--	----------------------

**ORDER DOCKETING FOR FORMAL PROCEEDING  
AND REQUESTING RESPONSE**

(Issued January 20, 2004)

On October 6, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to impose civil penalties pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution issued in C-03-187, involving Legacy Long Distance International, Inc. (Legacy), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings (which are a part of the record in this proceeding pursuant to 199 IAC 6.7), it appears the events to date can be summarized as follows:

On August 1, 2003, Mr. Fred Wegner filed a complaint with the Board alleging that his long distance telephone service had been switched to MCI WorldCom (MCI), and then again to Global Crossing Telecommunications, Inc. (Global), without proper

authorization. Board staff identified the matter as C-03-187 and, pursuant to Board rules, on August 8, 2003, forwarded the complaint to MCI and Global for response.

On August 19, 2003, Global filed a written response to Mr. Wegner's complaint stating that its records demonstrated that the change to Mr. Wegner's long distance carrier was initiated by Legacy Long Distance International, Inc. (Legacy), a switchless reseller of Global's long distance services. As a result of Global's response, Board staff forwarded Mr. Wegner's complaint to Legacy on August 21, 2003, for response within ten days. Legacy did not respond within the ten-day time limit.

MCI responded to Mr. Wegner's complaint on September 11, 2003, stating that its records demonstrated that Mr. Wegner's local toll service had been inadvertently switched to MCI and that Mr. Wegner had been billed \$5 for switching fees. MCI stated that no other charges were billed to Mr. Wegner's account. MCI further stated that Mr. Wegner's account with MCI had been closed and Mr. Wegner had been credited the \$5 switching fees.

On September 25, 2003, Board staff issued a proposed resolution describing these events and finding by default that Legacy had violated the Board's slamming rules. The proposed resolution directed Legacy to fully credit all charges on Mr. Wegner's account and to close Mr. Wegner's account. No party other than the Consumer Advocate has challenged the staff's proposed resolution.

In its October 6, 2003, petition, Consumer Advocate asserts a civil penalty should be imposed against Legacy to deter future slamming violations. Consumer Advocate also asserts that other slamming complaints received by Board staff have named Legacy as the alleged violating company. Consumer Advocate requests that

the Board docket this complaint for a formal proceeding. Legacy has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date as well as the additional slamming complaints made against Legacy and finds that there is sufficient information to warrant further investigation in this matter. The Board recognizes that there has not been any action in this matter for some time. Therefore, the Board will delay establishing a procedural schedule until March 5, 2004, and allow Legacy an opportunity to respond to the allegations raised in Consumer Advocate's petition.

**IT IS THEREFORE ORDERED:**

1. The "Petition for Proceeding to Impose Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on October 6, 2003, is granted and docketed for formal proceeding.

2. Legacy Long Distance International, Inc., is requested to file a response to the petition filed by Consumer Advocate on October 6, 2003, on or before March 5, 2004.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 20<sup>th</sup> day of January, 2004.